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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2013-464**

11 **MARIAN D. RYAN, A.K.A. MARIAN**
12 **DYMPHNA RYAN**
13 **1229 Monterey Street**
Hollister, CA 95023

ACCUSATION

14 **Registered Nursing License No. 458463**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about August 31, 1990, the Board of Registered Nursing issued Registered
23 Nursing License Number 458463 to Marian D. Ryan (Respondent). The Registered Nursing
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on February 28, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10 ...

11 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
12 functions, and duties of a registered nurse, in which event the record of the conviction shall be
13 conclusive evidence thereof.

14 ..."

15 6. Section 2762 of the Code states:

16 "In addition to other acts constituting unprofessional conduct within the meaning of this
17 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
18 chapter to do any of the following:

19 "..."

20 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
21 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
22 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
23 himself or herself, any other person, or the public or to the extent that such use impairs his or her
24 ability to conduct with safety to the public the practice authorized by his or her license.

25 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
26 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
27 or the possession of, or falsification of a record pertaining to, the substances described in
28

1 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
2 thereof.

3 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
4 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
5 section, in which event the court order of commitment or confinement is prima facie evidence of
6 such commitment or confinement.

7 "..."

8 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
9 revoke a license on the ground that the licensee has been convicted of a crime substantially
10 related to the qualifications, functions, or duties of the business or profession for which the
11 license was issued.

12 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
13 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
14 licensee or to render a decision imposing discipline on the license.

15 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
16 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
17 within which the license may be renewed, restored, reissued or reinstated.

18 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
23 included in a stipulated settlement.

24 FIRST CAUSE FOR DISCIPLINE

25 (CRIMINAL CONVICTIONS)

26 11. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), 2762(c),
27 and/or 490 in that on or about November 10, 2008, in a criminal proceeding entitled *The People*
28 *of the State of California v. Marian D. Ryan* in San Benito County Superior Court, Case Number

1 CR-08-02076, Respondent was convicted by her plea of guilty of violating Vehicle Code section
2 23152(b) (driving with .08% or more blood alcohol). Respondent was sentenced to serve 25 days
3 in county jail, probation for three years, and ordered to pay fines in the amount of \$1,890.00. The
4 circumstances are that on or about April 15, 2008, Respondent was driving northbound on Airline
5 Highway in Hollister, California. Her vehicle collided with another vehicle that was stopped for a
6 red light. Respondent failed field sobriety tests and her blood alcohol measured .24%.

7 12. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), 2762(c),
8 and/or 490 in that on or about January 12, 2012, in a criminal proceeding entitled *The People of*
9 *the State of California v. Marain Dymphna Ryan* in San Benito County Superior Court, Case
10 Number CR-11-02001, Respondent was convicted by her plea of guilty of violating Vehicle Code
11 section 23152(b) (driving with .08% or more blood alcohol with a prior). Respondent was
12 sentenced to serve 30 days in county jail, probation for three years, and ordered to pay fines in the
13 amount of \$2,447.00. The circumstances are that on or about October 31, 2011, Respondent was
14 arrested for drunk driving after she failed to stop at a stop sign at the intersection of Washington
15 Street and Hawkins Street in Hollister, California. Respondent failed field sobriety tests and her
16 blood alcohol was .16%. Respondent had also taken Percocet at 4:00 p.m.

17 13. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), 2762(c),
18 and/or 490 in that on or about July 12, 2012, in a criminal proceeding entitled *The People of the*
19 *State of California v. Marian D. Ryan* in San Benito County Superior Court, Case Number CR-
20 12-00658, Respondent was convicted by her plea of no contest of violating Vehicle Code section
21 14601.2(a) (driving when privilege suspended or revoked for driving under the influence of
22 alcoholic beverage or drug). Respondent was sentenced to serve ten days in county jail, probation
23 for one year, and ordered to pay fines in the amount of \$1,339.00.

24 SECOND CAUSE FOR DISCIPLINE

25 (USING ALCOHOL IN A MANNER DANGEROUS TO SELF OR OTHERS)

26 14. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b), in
27 that she used alcohol in a manner dangerous to herself or others. The circumstances are that on or
28 about July 27, 2008, a good samaritan observed Respondent sitting near the sidewalk at 910

1 Sunset in Hollister, California, and appearing to be very intoxicated. Respondent reported she
2 had just gotten out of rehab. He took her to Hazel Hawkins Hospital, where Respondent became
3 belligerent and refused to get out of the car. Police were called and observed Respondent to have
4 bloodshot watery eyes, heavily slurred speech, unsteady gait, and an odor of alcoholic beverages.
5 Respondent was placed under arrest.

6 15. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b), in
7 that she used alcohol in a manner dangerous to herself or others. The circumstances are that on or
8 about October 31, 2011, Respondent was arrested for drunk driving after she failed to stop at a
9 stop sign at the intersection of Washington Street and Hawkins Street in Hollister, California.
10 Respondent failed field sobriety tests and her blood alcohol was .16%. Respondent had also
11 taken Percocet at 4:00 p.m.

12 16. Respondent is subject to disciplinary action under sections 2761(a) and 2762(b), in
13 that she used alcohol in a manner dangerous to herself or others. The circumstances are that on or
14 about April 15, 2008, Respondent was driving northbound on Airline Highway in Hollister,
15 California. Her vehicle collided with another vehicle that was stopped for a red light.
16 Respondent failed field sobriety tests and her blood alcohol measured .24%.

17
18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nursing License Number 458463, issued to
22 Marian D. Ryan;

23 2. Ordering Marian D. Ryan to pay the Board of Registered Nursing the reasonable
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions
25 Code section 125.3;

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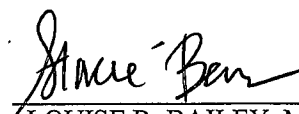
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3. Taking such other and further action as deemed necessary and proper.

DATED: DECEMBER 8, 2012

for 

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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